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16 CFR Ch. I (1–1–11 Edition)

conditions of the warranty offered, or who employs other deceptive or unfair means.

Section 239.2 of the Guides applies only to advertisements for written warranties on consumer products, as “written warranty” and “consumer product” are defined in the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, that are covered by the Rule on Pre-Sale Availability or Written Warranty Terms, 16 CFR part 702. The other sections of the Guides apply to the advertising of any warranty or guarantee.

[50 FR 18470, May 1, 1985; 50 FR 20899, May 21, 1985]

§ 239.2 Disclosures in warranty or guarantee advertising.

(a) If an advertisement mentions a warranty or guarantee that is offered on the advertised product, the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, that prior to sale, at the place where the product is sold, prospective purchasers can see the written warranty or guarantee for complete details of the warranty coverage.¹

Examples: The following are examples of disclosures sufficient to convey to prospective purchasers that, prior to sale, at the place where the product is sold, they can see the written warranty or guarantee for complete details of the warranty coverage. These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive. In each example, the portion of the advertisement that mentions the warranty or guarantee is in regular type and the disclosure is in italics.

A. “The XYZ washing machine is backed by our limited 1 year warranty. *For complete details, see our warranty at a dealer near you.*”

B. “The XYZ bicycle is warranted for 5 years. *Some restrictions may apply. See a copy of our warranty wherever XYZ products are sold.*”

C. “We offer the best guarantee in the business. *Read the details and compare wherever our fine products are sold.*”

¹In television advertising, the Commission will regard any disclosure of the pre-sale availability of warranties as complying with this Guide if the advertisement makes the necessary disclosure simultaneously with or immediately following the warranty claim and the disclosure is made in the audio portion, or, if in the video portion, it remains on the screen for at least five seconds.

D. “*See our full 2 year warranty at the store nearest you.*”

E. “Don’t take our word—take our warranty. *See our limited 2 year warranty where you shop.*”

(b) If an advertisement in any catalogue, or in any other solicitation² for mail order sales or for telephone order sales mentions a warranty or guarantee that is offered on the advertised product, the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, that prospective purchasers can obtain complete details of the written warranty or guarantee free from the seller upon specific written request or from the catalogue or other solicitation (whichever is applicable).

Examples: The following are examples of disclosures sufficient to convey to consumers how they can obtain complete details of the written warranty or guarantee prior to placing a mail or telephone order. These examples are illustrative, not exhaustive. In each example, the portion of the advertisement that mentions the warranty or guarantee is in regular typeface and the disclosure is in italics.

A. “ABC quality cutlery is backed by our 10 year warranty. *Write to us for a free copy at: (address).**”

B. “ABC power tools are guaranteed. *Read about our limited 90 day warranty in this catalogue.**”

C. “*Write to us for a free copy of our full warranty.* You’ll be impressed how we stand behind our product.”

[50 FR 20899, May 21, 1985]

§ 239.3 “Satisfaction Guarantees” and similar representations in advertising; disclosure in advertising that mentions “satisfaction guarantees” or similar representations.

(a) A seller or manufacturer should use the terms “Satisfaction Guarantee,” “Money Back Guarantee,” “Free Trial Offer,” or similar representations in advertising only if the seller or manufacturer, as the case may be, refunds the full purchase price of the advertised product at the purchaser’s request.

(b) An advertisement that mentions a “Satisfaction Guarantee” or a similar representation should disclose, with such clarity and prominence as will be

²See note 1.

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noticed and understood by prospective purchasers, any material limitations or conditions that apply to the “Satisfaction Guarantee” or similar representation.

Examples: These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive.

Example A: (In an advertisement mentioning a satisfaction guarantee that is conditioned upon return of the unused portion within 30 days) “We guarantee your satisfaction. If not completely satisfied with Acme Spot Remover, return the unused portion within 30 days for a full refund.”

Example B: (In an advertisement mentioning a money back guarantee that is conditioned upon return of the product in its original packaging) “Money Back Guarantee! Just return the ABC watch in its original package and ABC will fully refund your money.”

§ 239.4 “Lifetime” and similar representations.

If an advertisement uses “lifetime,” “life,” or similar representations to describe the duration of a warranty or guarantee, then the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, the life to which the representation refers.

Examples: These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive.

Example A: (In an advertisement mentioning a lifetime guarantee on an automobile muffler where the duration of the guarantee is measured by the life of the car in which it is installed) “Our lifetime guarantee on the Whisper Muffler protects you for as long as your car runs—even if you sell it, trade it, or give it away!”

Example B: (In an advertisement mentioning a lifetime guarantee on a battery where the duration of the warranty is for as long as the original purchaser owns the car in which it was installed) “Our battery is backed by our lifetime guarantee. Good for as long as you own the car!”

§ 239.5 Performance of warranties or guarantees.

A seller or manufacturer should advertise that a product is warranted or guaranteed only if the seller or manufacturer, as the case may be, promptly and fully performs its obligations under the warranty or guarantee.

PART 240—GUIDES FOR ADVERTISING ALLOWANCES AND OTHER MERCHANDISING PAYMENTS AND SERVICES

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AUTHORITY: Secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46; 49 Stat. 1526; 15 U.S.C. 13, as amended.

SOURCE: 55 FR 33663, Aug. 17, 1990, unless otherwise noted.

§ 240.1 Purpose of the Guides.

The purpose of these Guides is to provide assistance to businesses seeking to comply with sections 2 (d) and (e) of the Robinson-Patman Act (the “Act”). The guides are based on the language of the statute, the legislative history, administrative and court decisions, and the purposes of the Act. Although the Guides are consistent with the case law, the Commission has sought to provide guidance in some areas where no definitive guidance is provided by the case law. The Guides are what their name implies—guidelines for compliance with the law. They do not have the force of law.

§ 240.2 Applicability of the law.

(a) The substantive provisions of section 2 (d) and (e) apply only under certain circumstances. Section 2(d) applies only to:

- (1) A seller of products
- (2) Engaged in interstate commerce
- (3) That either directly or through an intermediary
- (4) Pays a customer for promotional services or facilities provided by the customer